

REMARKS

In this response, claim 56 has been amended, and no claims have been canceled or added. Thus, claims 1-4 and 6-57 remain pending. The Office Action issued by the Examiner has been carefully considered by Applicant.

A. Claim 56 has been rejected under 35 U.S.C. 112.

Applicant has made a simple amendment to claim 56 above in order to reduce the number of issues remaining in this application.

B. Claims 1, 2, 4, 57 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan (U.S. Patent No. 5,857,174) in view of Khedkar et al. (hereinafter Khedkar U.S. Patent No. 6,609,118).

Applicant's independent claim 1 recites that "said processor is configured to use at least one of said standard monetary values for each of said plurality of monetary value-effecting characteristics to obtain a market standard monetary value for each of said at least two of said plurality of real estate properties". The Examiner states that Dugan does not disclose a market standard monetary value, but argues that Khedkar teaches possible adjustments 210 "as a function of the different number of bathrooms between the subject and comparable property" (citing col. 10, lines 32-59; and cols. 8-13).

It should be noted, however, that Khedkar's adjustments 210 are made with respect to differences that depend upon the particular subject property selected. In contrast, Applicant's claimed market standard monetary value (herein sometimes referred to as simply "market standard value" or "MSV") is determined using "standard monetary values" as claimed, and the market standard monetary value does not depend upon the selection of any particular property (subject property or otherwise). Instead, the market standard value is determined by adjusting the recited "actual monetary value" by the "standard monetary values", which are not dependent upon a particular subject property.

For example, Khedkar describes that the comparable properties undergo adjustments to their sales prices based on the difference between the selected subject property and the comparable properties (col. 10, lines 21-26). Khedkar does not anywhere teach or suggest that these adjustments will be made in the absence of a comparison to the subject property. An adjustment for a property that varies in each scenario depending on the selection of the subject property does not provide a standard monetary value.

Indeed, Khedkar describes that an adjustment should not even be done if four comparables cannot be found (col. 10, lines 60-63). In contrast, a market standard value may be determined for a property according to Applicant's claim 1 by adjusting the actual monetary value by the standard monetary values in the database. It is not necessary to select a set of other properties prior to determining this MSV.

Applicant's specification provides an example of a market standard value calculation (paragraphs [0077] and [0078]). Here, the table provided illustrates an Actual Rent of \$1000 that is adjusted by several standard monetary values (e.g., fireplace \$15) to provide a Market Standard Rent of \$921. In particular, note that the calculation of the Market Standard Rent is not dependent on the selection of comparable properties or any other property.

Further, Applicant's specification in paragraph [0075] describes a market standard value as standardized values for a property's sales price or rental value. One of skill in the art would understand that such standardization is not limited to merely a small group of selected comparable properties used to provide an appraised value for a single subject property.

The primary reference, Dugan, used by the Examiner in this rejection also makes clear throughout its description that the adjusted sales price 156 for a comparable property is not the same for all subject properties (col. 12, lines 61-65). In other words, as is the case for Khedkar described above, the adjustments made to sales prices will vary from one

scenario to another as the subject property selected varies. This is, of course, not surprising since both Dugan and Khedkar have as their very limited single goal the providing of an appraised value for a selected property.

Dugan further describes that “[i]n this manner, the adjusted sale price 156 for a given property is particular to the subject property being appraised. Hence, each time a new subject property is selected, a new adjusted sale price 156 will have to be determined for that comparable property. Thus, a comparable property will have a different adjusted price depending upon the similarity with a chosen subject property.” (col. 13, lines 1-7). A sales price 156 that varies like this with a change in subject property is not a market standard value as recited in claim 1 by Applicant. Accordingly, claim 1 should be allowed as non-obvious over Dugan and Khedkar.

Applicant's claim 4, which depends from claim 1, recites “a list presented to said system user of each said standard monetary value used by said processor to obtain said market standard monetary value for each of said at least two of said plurality of real estate properties.” Khedkar cannot teach such a list since Khedkar does not teach a standard monetary value. Further, because Khedkar and Dugan are focused on appraising a single subject property, there can be no suggestion here to prepare a list for two or more properties, in which the two or more properties are not restricted to only those comparable properties used to appraise the single subject property. Moreover, when the Examiner is attempting to make a prima facie case, any suggestion to present the factors influencing a valuation cannot properly extend beyond the global purpose of each of Dugan and Khedkar (i.e., the appraisal of a single subject property).

C. Claims 6-17, 41-45, 51-56 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan in view of Apgar (U.S. Patent No. 5,680,305).

Applicant's claim 6 recites “evaluating each of said plurality of physical factors and attributing to said each of said plurality of physical factors a factor score”. The Examiner

argues that categories 110 teach sets of physical factors and provides the categories of Facilities 116 and Improved 118 as each being an example of a “set.” The Examiner further states that the Competitive Desirability Factors 125 are examples of physical factors (e.g., sidewalk, gas mains, and TV Cable would each be physical factors in the set of “Facilities 116”).

The Examiner further argues that it is obvious from Dugan that the desirability factors 125 must be assigned some sort of score. However, Dugan only teaches that a person will consider the various desirability factors in deciding a final overall IPS score for the category. Specifically, Dugan states “[n]ext to each category 110 is a list of illustrative competitive desirability factors 125. These desirability factors 125 allow the appraiser or buyer that is filling out the form, to have some indication as to what attributes of the comparable property is to be assessed for each particular category 110.” (col. 9, lines 43-48). Having an indication like this that may lead to subjective consideration by an appraiser when deciding an overall score for the category 110 is simply not the “attributing” to each physical factor in a set a score as recited by Applicant’s claim 6.

Indeed, Dugan lists such a large number of desirability factors in each category 110 that it would be expected that a person often would not consider many of them when making an evaluation. In contrast, an example of attributing a score to individual physical factors is shown in Applicant’s specification at paragraph [0049]. Here, the table provided shows set 1 with several physical factors each having been attributed a factor score. A set 2 has several physical factors each attributed a factor score. Using the approach of Dugan would only result in a single score being attributed to set 1 and a single score to set 2. This is simply not the same thing. In Dugan, there is no objective data recorded to reflect that an evaluation was done of a particular physical factor in a given set. For example, the appraiser in Dugan may give all or most consideration to topography in the facilities 116 category. Dugan provides no way to determine this, no information regarding such

consideration, and no guidance to an appraiser to use in walking through and individually scoring each physical factor in a set.

Further, the making of a proper *prima facie* case here is not accomplished by the providing of any mere mathematical similarity to a prior appraisal approach. In the method of claim 6, a user is at some point evaluating a property by observation or some form of mental consideration. The method in which the information is presented to the user and the user actually provides scoring info is relevant to an obviousness analysis. Here, the result of using Dugan's approach is that a user enters only a single number for a set. In Dugan, there is no objective indication in the list of individual scores that make clear whether and to what extent an appraiser actually considered an individual physical factor in the set.

Applicant's independent claim 6 further recites that "weight indicators of each of said plurality of physical factors in said each of said plurality of sets are equal". The Examiner argues that Dugan teaches weight indicators in the form of IPS values 138 (e.g., Fig. 6a). These maximum total IPS values sum to a total of 100. Specifically, Dugan states that "[u]nder an Ideal Point System (IPS), each of the categories 110 are assigned a maximum percentage or maximum IPS value 138. The total of all the maximum IPS values 138 should preferably add up to a total of 100 percent. Thus, if the user were to rate the particular property as having the maximum IPS value 138 for each category 110, a total score of 100 points would be awarded that property." (col. 9, lines 48-55).

Although the maximum IPS value permitted for a category may affect the weight that is given to the appraiser's single score for that category, this is at most giving a weight to an individual score. Dugan does not teach or suggest that each of the desirability factors in a category be given a factor score to which an equal weight will be applied. Again, Dugan does not provide any objective control over the consideration that an appraiser will give to each of the desirability factors. In contrast, for example for a more important set of physical factors where the set has a high weight indicator, the method of claim 6 recites

that each physical factor in this important set will have an individual factor score assigned. Thus, it will be objectively clear whether an appraiser considered each of these more important physical factors, and the score will reflect the result of the appraiser's consideration. Dugan does not suggest anything like this.

Moreover, the other reference, Apgar, cited by the Examiner explicitly teaches away from using weight indicators that are equal for the physical factors listed in a given set. For the sake of argument, if the term "Grade" as described by Apgar (col. 11, lines 21-30) is considered to be a physical characteristic, then Apgar illustrates two Grade indicators in Fig. 13 (Building Class 342 and Building Age 344). Each of these indicators is multiplied by a weight factor (XGK¹ and KGK²) in order to obtain a overall Grade score (col. 20, lines 16-23). If Grade is considered, for the sake of argument, to be a set of physical factors, then Apgar explicitly teaches that each physical factor is multiplied by a different weight. From a fair overall reading of Apgar, a person of skill in the art is led to use different weight indicators for each factor in a set of physical factors.

As additional examples in Apgar, see Fig. 5 (Amount factors) and Fig. 10 (Price factors). Anywhere that Apgar teaches or suggests factors that correspond to a set, Apgar teaches using different weight indicators. Further, the final summation of factors in Fig. 21 also teaches using different weights. There is nothing in Apgar that suggests using equal weights for factors in a given set. Accordingly, claim 6 should be allowed over the cited references.

Applicant's independent claims 13 and 51 are believed allowable at least for the reasons discussed above for claim 6, which the Examiner cites as the primary basis for the rejections.

Applicant's independent claims 41 and 54 are believed allowable at least for the reasons discussed above for claims 1 and 6, which the Examiner cites as the primary basis for the rejections.

Applicant's claim 56, which depends indirectly from claim 54, is believed allowable for the above reasons provided for claim 54 and further for the recitation of "market standard rental rates". The Examiner cites Apgar as teaching an average rent. However, an average rent is only an average of actual rents. There are no standard monetary values taught or suggested for use by Apgar.

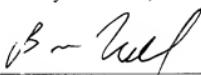
D. Claim 3 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan in view of Three (Three More Companies Become WebLink Wireless Enterprise Solutions Partners: Datamatic, LynkUs and VoiceLink Join 19 Other Companies in Wireless Data Effort. Pr Newswire, New York: May 4, 2000, pg. 1).

Claim 3 depends from Applicant's claim 1 and is believed allowable for the reasons discussed above.

In view of the above, Applicant respectfully requests reconsideration of this application and the allowance of all pending claims. It is respectfully submitted that the Examiner's rejections have been successfully traversed and that the application is now in order for allowance. Applicant believes that the Examiner's other arguments not discussed above are moot in light of the above arguments, but reserves the later right to address these arguments. Arguments made in Applicant's prior response are incorporated herein to the extent not changed by the above arguments. Accordingly, reconsideration of the application and allowance thereof is courteously solicited.

Respectfully submitted,

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Bruce T. Neel
Reg. No. 37,406

Customer Number 33717
GREENBERG TRAURIG, LLP
2450 Colorado Avenue, Suite 400E

Santa Monica, CA 90404
Phone: (602) 445-8339
Fax: (602) 445-8100
E-mail: neelb@gtlaw.com